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Attorney for: Defendant Oscar Martinez

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

\*E-FILED - 4/3/07\*

UNITED STATES OF AMERICA,

Plaintiff,

vs.

OSCAR MARTINEZ,

Defendant.

CR NO. 05-00734 RMW

JOINT STIPULATION AND []  
ORDER TO TAKE SENTENCING  
HEARING OFF CALENDAR AND LIFT  
STAY ON WARRANT

Defense counsel and the Assistant United States Attorney hereby stipulate and agree and move the Court to take the sentencing hearing currently scheduled for Monday, April 2 off calendar, and further stipulate and agree that the stay may be lifted on the warrant the Court indicated it would enter at the March 19 hearing.

This case was previously set for sentencing on March 19, 2007. At that time, the defendant did not appear, and the Court indicated it would issue a bench warrant but stay it until April 2, the new sentencing date. The government indicated at that hearing that it would give the defendant a new date and time to receive parole documents allowing him to cross into the United States for sentencing. The government reports in its Second Supplemental Sentencing Memorandum that he did not cross the border on that date, and that it believes he does not otherwise have authority to be in the United States.

STIPULATION AND [] ORDER TO VACATE SENTENCING HEARING, U.S. V. OSCAR MARTINEZ, CR

1 The parties have no reason to believe that Mr. Martinez can or will appear for the April 2  
2 sentencing. Therefore, the parties stipulate that the April 2 hearing may be taken off calendar.  
3 They also agree that the stay may be lifted and the bench warrant may issue. The parties further  
4 agree that they will inform the Court and put the matter back on calendar if and when it becomes  
5 practicable to do so.

6 Dated: March 30, 2007

Respectfully submitted,

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8 /s/ Mark D. Eibert

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10 MARK D. EIBERT  
Attorney for Defendant Oscar Martinez

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12 Respectfully submitted,

13 /s/ Mark Krotoski

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15 MARK KROTOSKI  
Attorney for the Government

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17 **ORDER**

18 Good cause appearing therefore, it is hereby ORDERED that the April 2 sentencing for  
19 defendant Oscar Martinez is hereby vacated. Further, the stay on the bench warrant the Court  
20 indicated it would issue on March 19 shall be lifted and the warrant will issue. The parties shall  
21 promptly inform the Court if conditions permit the matter to be put back on calendar.

22 Dated: 4/3/07

23 Ronald M. Whyte  
UNITED STATES DISTRICT JUDGE

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STIPULATION AND [[ ORDER TO VACATE SENTENCING HEARING, U.S. V. OSCAR MARTINEZ,, CR